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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,491	12/30/2003	Daniel C. George	COM-031216	8728
30981	7590	03/13/2006	EXAMINER	
King & Jovanovic, PLC 170 College Avenue SUITE 230 HOLLAND, MI 49423			CONLEY, FREDRICK C	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/748,491	Applicant(s) GEORGE, DANIEL C.	
	Examiner FREDRICK C. CONLEY	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-18 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/7/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim 20 has not been treated since it depends from cancelled claim 19.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,930,173 to Woller in view of U.S. Pat. No. 5,488,746 to Hudson, and further in view of U.S. Pat. No. 4,780,921 to Lahn et al.

Claims 1 and 9, Woller discloses a support comprising;
an inner liner and outer liner 30 having an outer surface and an inner surface defining an enclosure, each having an outer surface and inner surface; and at least one intermediate liner 32 positioned between the inner liner and the outer liner. Woller fails to disclose an inner liner having an opening providing access into the enclosure.
Hudson discloses a support having outer and inner liners (52,56) with an opening 26 into an enclosure. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ an opening as taught by Hudson within the outer and inner liners in order to provide access into the enclosure and allow the extraction or addition of fill material to the support of Woller. Woller fails to disclose the inner, intermediate, and outer liners of the cover made from a material capable of elastic

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deformation. Lahn discloses a cover for a support being constructed from a material, such as Lycra or Spandex, capable of elastic deformation (col. 4 lines 43-53). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ an elastic material as taught by Lahn in order to provide a comfortable support for persons having chronic or orthopedic problems (Lahn)(col. 4 lines 49-53). With regards to the support employed as a chair it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQZd 1647 (1987). Woller fails to disclose

Claim 2 and 4, wherein Woller, as modified, discloses the inner liner including a closure member (Hudson)(26) capable of substantially sealing the opening of the inner liner.

Claim 3 and 5, wherein Woller, as modified, discloses the closure member comprising a zipper.

Claim 6, wherein Woller, as modified, discloses the entirety of the inner liner comprises a material, such as Lycra or Spandex, inherently capable of elastic deformation (Lahn)(col. 4 lines 21-27).

Claim 7, wherein Woller, as modified, discloses substantially the entirety of the outer liner comprising a material, such as Lycra or Spandex, inherently capable of elastic deformation (col. 3 lines 36M2)(Reder).

Claim 8, wherein the material of Woller, as modified, is inherently capable of elastic deformation in a plurality of directions.

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Claim 10, Woller, as modified, discloses the claimed invention except for the material being

capable of stretching from a first un-stretched configuration to a second stretched configuration which is approximately 5% to 120% greater than the un-stretched configuration. It would have been an obvious for one having ordinary skill in the art at the time of the invention to have the ranges as stated above, since Applicant has not disclosed that the amount of stretching is critical and it would appear that the material taught by Reder would perform equally well.

Claim 11, Woller, as modified, discloses the claimed invention except for the material comprising a weight of between approximately 4 ounces per square yard and 20 ounces per square yard. It is considered an obvious modification to alter the weight of a structural element and it would have been an obvious for one having ordinary skill in the art at the time of the invention to have the weight as stated above , since Applicant has not disclosed that the weight is critical and it would appear that the weight of the material taught by Reder would perform equally well.

Claim 17, Woller, as modified, discloses the claimed invention except for the largest dimension

between approximately 2 feet and 5 feet. It is considered an obvious modification to merely alter the size of a structural element and it would have been an obvious to have the

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largest dimension between approximately 2 feet and 5 feet, since Applicant has not disclosed that the dimension is critical and it would appear that the dimension taught by Woller would perform equally well.

Claim 18, Woller further discloses each of the inner liner and the outer liner comprise a plurality

of panels attached to each other (fig. 3).

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,930,173 to Woller in view of U.S. Pat. No. 5,488,746 to Hudson, U.S. Pat. No. 4,780,921 to Lahn et al, as applied above, and further in view of U.S. Pat. No. 4,011,611 to Lederman.

Claims 13-14, Woller, as modified, discloses all of the Applicant's claimed limitations except for the fill material comprising a plurality of small members. Lederman discloses a fill material comprising a plurality of small members of polystyrene (col. 4 lines 65-67).

It would have been obvious for one having ordinary skill in the art at the time of the invention to employ the fill material as taught by Lederman in order to extend the life of the support (Lederman)(col. 2 lines 25-38).

Claim 15, Woller, as modified, discloses the claimed invention except for the small members have a largest dimension between approximately 1 mm and 25mm. It is considered an obvious modification to alter the size of a structural element and it would have been an obvious for one having ordinary skill in the art at the time of the invention to have the small members have a largest dimension between approximately 1 mm and

25mm, since Applicant has not disclosed that the dimension of the small members is critical and it would appear that the weight of the members taught by Woller would perform equally well.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,930,173 to Woller in view of U.S. Pat. No. 5,488,746 to Hudson, U.S. Pat. No. 4,780,921 to Lahn et al, as applied above, and further in view of U.S. Pat. No. 5,375,278 to Van Winkle.

Claim 16, Woller, as modified, discloses all of the Applicant's claimed limitations except for the

outer liner and the inner liner comprising a substantially spherical configuration. Van Winkle discloses a support having an inner and outer liner (12,16) having a spherical configuration (fig. 3). It would have been obvious for one having ordinary skill in the art at the time of the invention to one having ordinary skill in the art at the time of the invention to have the inner and outer liners with a spherical configuration as taught by Van Winkle in order to provide a shape that readily conforms to a selected body pad.

Allowable Subject Matter

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-11 and 13-18 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICIA L. ENGLE can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



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3-3-06